

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Civ. No. 18-142
)	
vs.)	
)	
JEFFREY HAWKER,)	
)	
Defendant.)	

COMPLAINT

The United States of America, by and through its undersigned counsel, brings this action and alleges as follows:

1. This is a civil action brought under the Federal Debt Collection Procedures Act (FDCPA), 28 U.S.C. §§ 3001-3308 for a debt owed to the United States by Defendant Jeffrey Hawker.

2. Because this is a “Government Collection Action” to recover monies owed to a Governmental agency, this action should be excluded from Pretrial Case Management procedures as provided by Rule 16.3(a), D.N.M.L.R-Civ.16.3(a).

JURISDICTION AND VENUE

3. The Court has jurisdiction under 28 U.S.C. § 1345 because the United States is the plaintiff.

4. Venue is proper in this Court because Defendant Jeffrey Hawker resides in the District of New Mexico. 28 U.S.C. § 1391(b).

FACTUAL ALLEGATIONS

5. That on or about April 19, 2013, the defendant executed a Recruitment Service Agreement related to his position as a physician at the Salem VA Medical Center, effective April 21, 2013. As part of the Recruitment Service Agreement, the defendant was paid a recruitment incentive of \$15,000, up front. He agreed to serve 52 bi-weekly pay periods of employment with the Department of Veterans Affairs, Salem VA Medical Center. The agreement specified a two-year service commitment from April 21, 2013 through April 15, 2015. The agreement also specified that he understood that the agreement would be terminated in the event he was demoted or terminated for cause. Recruitment Service Agreement is attached as Exhibit 1.

6. On December 16, 2013, the employee was notified that a review by the Professional Standards Board (PSB) resulted in a recommendation of the employee's termination, and the Station concurred with the recommendation. The employee was officially terminated as of January 3, 2014.

7. Per the Recruitment Service Agreement, Defendant Jeffrey Hawker is required to repay incentive payments in excess of the amount attributable to the completed portion of the service period. He has failed to do so.

8. The defendant is indebted to the plaintiff in the principal amount of \$9,807.64, plus interest on the principal computed at the rate of 1.00% percent per annum from February 15, 2014, until the date of judgment. Defendant further owes administrative charges totaling \$2,116.60. The total amount due to the Department of Veterans Affairs is \$12,218.00, as of June 15, 2016. The certificate of indebtedness is attached as Exhibit 2.

CLAIM FOR RELIEF

Plaintiff requests Judgment against the Defendant in the principal amount of \$9,807.64,

interest on the principal at the rate of 1.00% per annum from February 15, 2014, and administrative costs totaling \$2,116.80 for a total of \$12,380.96.

Plaintiff also requests post-judgment interest pursuant to 28 U.S.C. Section 1961.

Respectfully submitted,

JAMES D. TIERNEY
Acting United States Attorney

Electronically filed on February 12, 2018

STEPHEN R. KOTZ
Assistant United States Attorney
Post Office Box 607
Albuquerque, New Mexico 87103
(505) 346-7274

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff _____

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

Jeffrey Hawker

County of Residence of First Listed Defendant McKinley

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)☒ 1 U.S. Government Plaintiff☐ 3 Federal Question (U.S. Government Not a Party)☐ 2 U.S. Government Defendant☐ 4 Diversity (Indicate Citizenship of Parties in Item III)**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 FEDERAL TAX SUITS

V. ORIGIN (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify)	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File
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VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. Sections 3001-3308 -Federal Debt Collection Procedures Act

Brief description of cause:

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

02/12/2018

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

00/02/2013 09:51 FAA 04022411

HUMAN RESOURCES

RECRUITMENT SERVICE AGREEMENT

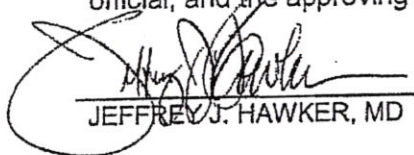
As a condition of being paid a recruitment incentive of \$15,000 in connection with my appointment on a full-time basis, to the position of Physician (Interventional Radiology) at the Salem VA Medical Center effective April 21, 2013, I agree to serve 52 bi-weekly pay periods of employment with the Department of Veterans Affairs (VA), Salem VA Medical Center and, in the event of transfer of function, to complete all remaining obligated service with the successor agency. Service in a non-pay status will not count towards satisfying this obligation. Any time in a non-pay status will merely postpone the service obligation to VA and will extend the period of obligated service by an equal number of days.

I understand that the incentive will be paid to me as a one-time lump sum payment. My service period beginning date for this agreement is April 21, 2013 and my service period ending date is April 15, 2015.

I understand that VA may unilaterally terminate this agreement based solely on the management needs of VA. I will be entitled to all recruitment incentive payments that are attributable to completed service and to retain any portion of an incentive payment received that is attributable to uncompleted service.

I understand that this agreement will be terminated if I am demoted or separated for cause, receive a rating of record of less than "Fully Successful" or equivalent, or fail to fulfill other terms of this agreement (such as reducing my work hours or changing positions). I understand I am entitled to retain incentive payments previously paid by VA that are attributable to the completed portion of the service period. If I received incentive payments that are less than the amount that would be attributable to the completed portion of the service period, VA is not obligated to pay me the amount attributable to completed service. If I received incentive payments in excess of the amount that would be attributable to the completed portion of the service period, I must repay the excess amount. I further agree that any amount I am obligated to refund will be a debt due the United States, which I hereby agree to pay in full as directed by VA, unless the Secretary of Veterans Affairs or designee determines that failure to complete the obligated service was for reasons beyond my control or that repayment is against equity or is not in the interest of the Government.

I understand that this agreement is valid only when signed by me, the recommending official, and the approving official.


JEFFREY J. HAWKER, MD

4/19/2013
Date

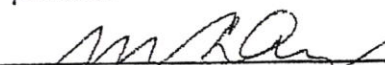

ANNE C. HUTCHINS, MD
Chief of Staff

4/19/2013
Date


REBECCA J. STACKHOUSE, FACHE/VHA-CM
Associate Director

4/19/2013
Date

APPROVED: I certify that payment of an incentive is appropriate in order to fill the above position.


MIGUEL H. LAPUZ, MD, MBA
Director

4/19/2013
Date



VISN 6 FINANCE OFFICE
1988 ROANOKE BLVD
SALEM, VA 24153

CERTIFICATE OF INDEBTEDNESS

Debtor: Jeffrey J. Hawker
Address: 610 S. Cliff Drive
Gallup, NM 87301-6032

Total debt due United States as of 01/13/2016. Amount due: \$12,218.00

I certify that records show that the debtor(s) named above is/are indebted to the United States in the amount stated above, plus additional interest on the principal balance of \$9,807.64 from 01/15/2014 at the annual rate of 1%. Interest accrues on the principal amount of this debt at the rate of \$.27 per day.

The claim arose as a result of defaulting on the service agreement resulting in repayment of \$288.46 for 34 pay periods.

Statement of the relevant facts, including: How the debtor(s) became indebted to the United States; the date the debtor(s) defaulted on the loan, note, or obligation; principal balance of the debt; amount and rate of accrued interest on principal balance

CERTIFICATION: Pursuant to 28 USC § 1746, I certify under penalty of perjury that the foregoing is true and correct.

Signature Kelly L. Castleman
Kelly L. Castleman,
Chief, Centralized Finance Service

Date: 2/9/17

